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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,441	12/15/2003	James Gleason JR.	VOI0283.US	3457

7590

01/06/2006

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EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,441

Applicant(s)

GLEASON, JAMES

Examiner

José A. Fortuna

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-32 are rejected under 35 USC §103(a). This rejection is set forth in the prior Office action mailed on June 1, 2005.

Response to Arguments

3. Applicant's arguments filed on October 24, 2005 have been fully considered but they are not persuasive.

Applicants argue that the cited reference, Persson et al., does not teach nor suggest: a) the measuring of the position of a target relative to the holder, i.e., the cited reference teaches the measuring between a ferrous surface **2a** and the seal, b) that in the present invention the sensor is not at, on, or in the sealing strip and c) the claimed system utilizes a non-contact proximity sensor and the system does not depend upon imbalances of electrical currents, as taught by Persson et al.

The arguments are not persuasive for the following reasons:
with regard to:

a) The measuring of the position of the target is indirectly a measure of the position with relation to the holder, since the seal is part, i.e. it is included in the holder. Also the cited reference teaches that not only the roll surface **2a** can be the target, but that the target can be part of the seal, see column 2, line 65 through column 3, line 8, (Emphasis Added): “[A]ccording to another aspect of the invention, there may instead be used a level indicator as indicator means, preferably of the potentiometer type, *which is arranged to measure the position of a fixed point at or in the seal strip*. Thereby, the level indicator continuously shows how the seal strip is displaced upwards as the wearing takes place (the displacement is explained in greater detail in the description of the figure), whereby the displacement and thereby also the value measured by the level indicator may indirectly and continuously give a measure of the remaining allowance.” Even if for arguments sake, the cited reference does not teach the relative measure between the strip and the holder, (which as explained above it does), using the holder as a reference point instead of the roll surface would have been obvious to one of ordinary skill in the art as an obvious design choice, as they are just different known means to measure the strip displacement from its original position.

With regard to:

b) The sensor of the cited reference is not part of the strip, see figure, but part of the strip/holder system, i.e., as figure 1 shows the sensor **5** is outside of the strip **1**, and in closed association. Moreover, there is nothing in the claims that precludes

Art Unit: 1731

the use of the sensor as part of the strip, since the claims state that the sensor is in association with the strip. The term **association**, which is the term used in the claims, does not imply that the strip and sensor are separated, i.e., apart from each other. Applicant admits the association of the strip and sensor system of the cited reference in page 9, lines 3-2 from the bottom, where applicants state “[T]he *sensor of Persson et al is associated with the seal strip...*” (Emphasis Added).

With regard to

c) There is nothing in the claims that limit such claims to these arguments. Yet, the use of more sophisticated system is within the levels of one of ordinary skill in the art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

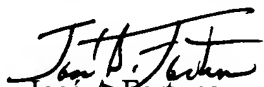
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1731

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


José A Fortuna
Primary Examiner
Art Unit 1731

JAF